

AMENDED IN ASSEMBLY APRIL 15, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## ASSEMBLY BILL

**No. 780**

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**Introduced by Assembly Member John A. Perez**

February 26, 2009

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An act to add Section 14310.1 to the Elections Code, relating to elections.

### LEGISLATIVE COUNSEL'S DIGEST

AB 780, as amended, John A. Perez. Elections: failsafe ballots.

Existing law permits a voter whose qualifications or entitlement to vote cannot be immediately established, under specified circumstances, to cast a provisional ballot in an election.

This bill would provide specified requirements to permit a voter who is unexpectedly away from his or her voting precinct on election day to cast a ballot at a county or precinct other than where the voter resides.

Because this bill would increase the duties of local elections officials, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 14310.1 is added to the Elections Code, to read:

14310.1. (a) ~~Any~~A qualified voter who has, due to unforeseen circumstances, been forced to leave the jurisdiction where he or she is registered to vote and is unable to request a vote by mail ballot, ~~shall be entitled to~~ may vote a failsafe ballot for any statewide office or question appearing on the ballot for an election.

(b) For the purposes of this section, “failsafe ballot” means a ~~ballot containing only state candidates or measures for the purposes of allowing a voter who meets the criteria set forth in this section to participate in a statewide election.~~ *provisional ballot, as provided for in Section 14310, with which the voter may vote only for candidates for statewide office and statewide ballot initiatives appearing on the ballot.*

(c) In order for a voter to meet the conditions set forth in subdivision (a), the following criteria must be met:

(1) The voter must declare, under penalty of perjury, that he or she is a registered voter residing in the State of California.

(2) ~~That unforeseen circumstances arose~~ *Unforeseen circumstances must have arisen* precluding the voter from casting his or her ballot in the jurisdiction ~~wherein they are~~ *in which the voter is registered to vote.*

(3) The circumstances precluding the voter from ~~arose~~ *casting his or her ballot must have arisen* suddenly and without warning after the period ~~where in which~~ the voter ~~may~~ *could* have requested a vote by mail ballot has passed, and ~~that~~ the voter did not request a vote by mail ballot ~~or requested a vote by mail ballot but the ballot did not arrive or arrived too late to be returned so as to be included in the statement of vote.~~

(d) ~~The County Clerk, Registrar of Voters~~ *county clerk, registrar of voters*, or county elections officials ~~must maintain a reasonable number of ballots where only state candidates and measure appear.~~ The County Clerk, Registrar of Voters, or a county elections official may, at his or her discretion, disburse ballots directly to precinct voting stations or require a voter seeking to cast a failsafe ballot ~~do so at the county elections office~~ *officials shall prepare and distribute forms containing the following statement: “I declare under penalty of perjury that I am a registered voter in the State*

1 *of California and that I meet the criteria necessary to vote a failsafe*  
2 *ballot.” The form shall include a description of the criteria*  
3 *necessary for a voter to exercise the option of voting a failsafe*  
4 *ballot, the address where the voter is registered, and a signature*  
5 *line for the voter to attest to his or her eligibility. The form shall*  
6 *be available at all polling stations within the county and shall be*  
7 *included in the failsafe ballot for transmittal to the county in which*  
8 *the voter is registered to vote.*

9 ~~(e) When providing a failsafe ballot to a voter meeting the~~  
10 ~~criteria of this section, the County Clerk, Registrar of Voters, or~~  
11 ~~county elections official shall require the voter to sign a statement~~  
12 ~~of qualification declaring, under penalty of perjury, that the voter~~  
13 ~~meets the criteria set forth in this section, and shall retain the~~  
14 ~~original form on file.~~

15 ~~(f)~~

16 (e) The completed failsafe ballot and statement of qualifications  
17 shall be enclosed in a provisional ballot envelope for transmittal  
18 to the appropriate jurisdiction.

19 ~~(g) The County Clerk, Registrar of Voters~~

20 (f) *The county clerk, registrar of voters, or county elections*  
21 *official shall transmit both the ballot and statement of qualification*  
22 *to the appropriate jurisdiction where the voter resides to be included*  
23 *in that jurisdiction’s official statement of vote. Failsafe ballots*  
24 *shall be transmitted within one week of the election.*

25 SEC. 2. No reimbursement is required by this act pursuant to  
26 Section 6 of Article XIII B of the California Constitution for certain  
27 costs that may be incurred by a local agency or school district  
28 because, in that regard, this act creates a new crime or infraction,  
29 eliminates a crime or infraction, or changes the penalty for a crime  
30 or infraction, within the meaning of Section 17556 of the  
31 Government Code, or changes the definition of a crime within the  
32 meaning of Section 6 of Article XIII B of the California  
33 Constitution.

34 However, if the Commission on State Mandates determines that  
35 this act contains other costs mandated by the state, reimbursement  
36 to local agencies and school districts for those costs shall be made  
37 pursuant to Part 7 (commencing with Section 17500) of Division  
38 4 of Title 2 of the Government Code.

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